

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TW, AW, LM, SM, and MT, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JEROME WYRICK,

Respondent-Appellant.

UNPUBLISHED

August 25, 2000

No. 222733

Calhoun Circuit Court

Family Division

LC No. 96-000951-NA

Before: Kelly, P.J., and Whitbeck and Collins, JJ.

MEMORANDUM.

Respondent father appeals by leave granted the family court's order terminating his parental rights to his minor children.¹ We affirm.

Respondent admits that grounds for exercising jurisdiction over the minor children existed in this case. These proceedings began on May 1, 1998. The complaint alleged that the mother had left the children in the care of a third party, said she would be back in a few minutes, and did not return for several hours. The complaint also alleged that the mother was not providing adequate food for the children. The complaint further alleged that, following a prior complaint in 1996, the mother had gone through in-patient drug treatment, but had failed to follow through on her out-patient care. The mother admitted to illegal drug use. Respondent and one other biological father were incarcerated, and the third biological father, though paying court-ordered support, denied paternity during the course of the proceedings and expressed no desire for custody. The children were placed in the temporary care of their maternal grandfather.

Respondent argues that the court abused its discretion by terminating his parental rights rather than appointing a guardian. We disagree.

¹ Respondent is the biological father of three of the five children involved in this proceeding.

This court reviews the family court's termination of parental rights in its entirety for clear error. *In re Huisman*, 230 Mich App 372, 384; 584 NW2d 349 (1998). A finding is clearly erroneous where the reviewing court is left with a definite and firm conviction that a mistake has been made. *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993).

The petitioner for the termination of parental rights bears the burden of proving at least one ground for termination. *In re Sours Minors*, 459 Mich 624; 593 NW2d 520 (1999). At the time of the termination proceeding, which was held on July 22, 1999, the conditions which led to adjudication still existed: the mother had no home and was believed to be living with a friend, and she had tested positive for drug use. Respondent was still incarcerated, as he had been for the duration of the proceedings, and had only a possibility of being paroled on January 23, 2000. He had not participated in a service plan and had not provided any support for the children. The court concluded that at least one statutory ground for terminating parental rights was met by clear and convincing evidence. We find no error.

The record as a whole also showed that the best interests of the children would be served by terminating parental rights rather than prolonging the temporary situation of their living with their grandfather. Psychological evaluations and the FIA caseworker's testimony supported this conclusion. The court weighed the possibility of the children being split up against the detriment of prolonging the lack of permanence and stability in their lives and found that termination was in their best interests. The court's finding was not clearly erroneous.

Affirmed.

/s/ Michael J. Kelly
/s/ William C. Whitbeck
/s/ Jeffrey G. Collins